In the Supreme Court of the United States

OCTOBER TERM, 1966

No. 669

ASSOCIATION OF INDUSTRIAL ELECTRICIANS, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

We respectfully invite the attention of the Court to the following facts which show that the petition was filed out of time:

The order of the court of appeals (Pet. App., p. 1) was filed on June 8, 1966.[1] The petition for a writ

[1] This order, dismissing for want of jurisdiction petitioner's petition for review, is a "judgment" within the meaning of 28 U.S.C. 2101(c). Cf. *National Labor Relations Board* v. *Mac-*

of certiorari was filed on October 13, 1966, one hundred and twenty-seven days after "entry" of the order.[2] No extension of the time for filing the petition was applied for or granted. Since the ninety-day limitation for filing a petition for a writ of certiorari imposed by 28 U.S.C. 2101(c) is jurisdictional, the petition is untimely and therefore should be denied.

Respectfully submitted.

THURGOOD MARSHALL,
Solicitor General.

ARNOLD ORDMAN,
General Counsel,
National Labor Relations Board.

OCTOBER 1966

Kay Radio & Telegraph Co., 304 U.S. 333, 343-344, reversing 87 F. 2d 611 (C.A. 9). Similarly, filing is synonomous with "entry" of the order. See Rule 22 of the Rules of the United States Court of Appeals for the Ninth Circuit, reprinted in 28 U.S.C.A.

[2] Petionier previously had attempted to file its petition on September 13, 1966—ninety-seven days after the entry of the order—but the Clerk's office did not accept it for filing.

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